



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**MAR 30 2009**

Jerry Northington  
Northington for Congress  
PO Box 7987  
Wilmington, DE 19803

RE: MUR 6066

Dear Mr. Northington:

This is in reference to the complaint you filed with the Federal Election Commission on September 8, 2008, concerning possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On March 10, 2009, the Commission reviewed the allegations in your complaint and found that on the basis of information provided in your complaint and information provided by respondents, there is no reason to believe that Micheal Miller and Karen Hartley-Nagle violated the Federal Election Campaign Act of 1971, as amended, in connection with the allegations of this matter. The Commission also found there is no reason to believe that Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(b).

In addition, after considering the circumstances of this matter, the Commission, on the same date, decided to dismiss the allegations that Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, and Friends for Mike Miller and Denise Diane Miller, in her official capacity as treasurer, violated 2 U.S.C. § 434(a). At the same time, the Commission noted that it appears that the Hartley-Nagle Committee failed to timely file its 2008 Pre-Primary Report in violation of 2 U.S.C. § 434(a) and cautioned it to take steps to ensure that its conduct is in compliance with the Act and Commission regulations. The Commission also noted that it appears that the Miller Committee failed to file any disclosure reports in violation of 2 U.S.C. § 434(a) and cautioned it to take steps to ensure that its conduct is in compliance with the Act and Commission regulations.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analyses, which more fully explains the Commission's findings, are enclosed.

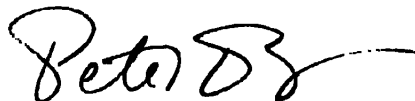
The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

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If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Thomasenia P. Duncan  
General Counsel



BY: Peter G. Blumberg  
Assistant General Counsel

Enclosures

1. Factual and Legal Analysis – Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer; Karen Hartley-Nagle
2. Factual and Legal Analysis – Friends for Mike Miller and Denise Diane Miller, in her official capacity as treasurer; Micheal C. Miller

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Karen Hartley-Nagle for Congress  
and Brenda L. Irwin,  
in her official capacity as treasurer  
Karen Hartley-Nagle

MUR: 6066

### I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Jerry Northington. *See* 2 U.S.C. § 437g(a)(1).

### II. FACTUAL AND LEGAL ANALYSIS

#### A. Background

Complainant alleges that Karen Hartley-Nagle and Karen Hartley-Nagle for Congress (“the Hartley-Nagle Committee”) failed to file the 2008 Pre-Primary report and disclose certain receipts and disbursements.

#### B. Allegation that the Karen Hartley-Nagle Campaign Failed to File the 2008 Pre-Primary Report

All campaigns that have reporting obligations must file periodic reports on financial activity. In an election year, authorized committees of House and Senate candidates must file pre-election reports before any election in which the candidate runs. 2 U.S.C. § 434(a)(2)(A)(i). For candidates running in the 2008 Delaware primary, the pre-primary report, covering the period July 1, 2008 through August 20, 2008, was due on August 28, 2008. *See* 2008 Congressional Pre-Election Reporting Dates, [http://www.fec.gov/info/charts\\_primary\\_dates.shtml#anchor2](http://www.fec.gov/info/charts_primary_dates.shtml#anchor2) (last visited Jan. 5, 2009).

Complainant alleges, and the facts support, that Karen Hartley-Nagle and the Hartley-Nagle Committee failed to timely file a required disclosure report. RAD sent the committee a

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non-filer notice, dated August 29, 2008, and the committee filed its report on September 5, 2008, 8 days after it was due. The report disclosed \$4,175 in receipts and \$3,774.56 in disbursements. In its response to the complaint, the committee's treasurer explained that the delay in filing was caused by a virus attack on their computer. RAD telephone logs show that the Committee advised RAD of the computer virus problem on September 4, 2008.

Though the Hartley-Nagle Committee filed its 2008 Pre-Primary Report late, given the circumstances surrounding the delay in filing the report, the low level of financial activity at issue, and in furtherance of the Commission's priorities and resources relative to other matters pending on the Enforcement docket, the Commission is exercising its prosecutorial discretion to dismiss with caution the allegation that Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(a). *See Heckler v. Chaney*, 470 U.S. 821 (1985).

### **C. Allegation that the Karen Hartley-Nagle Campaign Failed to Disclose Certain Receipts and Disbursements**

Committee treasurers must file complete and accurate reports of receipts and disbursements. 2 U.S.C. § 434(b). Complainant alleges that Ms. Hartley-Nagle publicly stated raising over \$100,000, which the Hartley-Nagle Committee had not disclosed. Complainant also alleges that the Hartley-Nagle campaign failed to disclose disbursements in connection with purchasing lawn signs, opening a campaign office, maintaining a campaign website, hiring a campaign consultant, and other campaign activity.

In its response to the complaint, the Hartley-Nagle Committee asserts that its latest disclosure report accurately reflects its fundraising activities and expenses paid to date for campaign activities. Specifically, the committee denies that Ms. Hartley-Nagle stated that she raised over \$100,000 in campaign donations or that her campaign raised that amount.

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Complainant did not provide any evidence and we could not find any publicly available information to support the assertion that the campaign raised over \$100,000. Further, the committee asserts that invoices for office space had not yet been submitted, expenditures for signs were disclosed in its last filing, and maintenance to the website was being done on a volunteer basis. The committee further asserts that its payments for consulting services would be disclosed in its October 15, 2008, report.

The Hartley-Nagle Committee's last three disclosure reports, the 2008 Pre-Primary, Pre-General, and October Quarterly Reports, reflect disbursements for signs, advertisements, and other campaign expenses. The committee's 2008 October Quarterly Report reflects a \$2,500 disbursement to a campaign consultant.

Based on the Hartley-Nagle Committee's response to the allegations and information contained in its disclosure reports, it appears that the committee properly disclosed its receipts and disbursements. Therefore, there is no reason to believe Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(b) in connection with these allegations.

#### **D. Allegations as to Karen Hartley-Nagle**

Complainant did not articulate any factual or legal basis for finding the candidate personally liable for any of the alleged reporting violations. Therefore, there is no reason to believe that Karen Hartley-Nagle violated the Act in connection with the allegations in this matter.

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends for Mike Miller  
and Denise Diane Miller,  
in her official capacity as treasurer  
Micheal C. Miller

MUR: 6066

### I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Jerry Northington. *See* 2 U.S.C. § 437g(a)(1).

### II. FACTUAL AND LEGAL ANALYSIS

Under the Act, an individual becomes a candidate for Federal office, thus triggering registration and reporting obligations, when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. 2 U.S.C. § 431(2). If a campaign has not exceeded the \$5,000 threshold, it is not required to file reports. 11 C.F.R. § 100.3(a)(1). All campaigns that have a reporting obligation must file periodic reports of financial activity. 2 U.S.C. § 434(a). Authorized committees of House and Senate candidates must file quarterly reports and pre-primary election and pre-general election reports before any election in which the candidate runs. Candidates running in the 2008 Delaware primary were required to file the Pre-Primary Report due on August 28, 2008, 48-Hour Notices if applicable, and the October Quarterly Report due on October 15, 2008. *See* 2008 Congressional Pre-Election Reporting Dates, [http://www.fec.gov/info/charts\\_primary\\_dates.shtml#anchor2](http://www.fec.gov/info/charts_primary_dates.shtml#anchor2) (last visited Jan. 5, 2009).

Complainant alleges that Micheal Miller and Friends for Mike Miller ("the Miller Committee") did not file disclosure reports with the Commission even though Mr. Miller publicly stated that he had raised over \$40,000 for his campaign and purchased various campaign

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materials such as palm cards, large highway signs, and lawn signs, rented billboards and placards on city buses and maintained a website.

In his response to the complaint, Mr. Miller acknowledges that he had “nearly \$40,000 dollars in signs and infrastructure” for his current campaign, but asserts that the signs were purchased and paid for by his last two campaigns. Mr. Miller also indicates that he purchased a billboard for \$2,343 and palm cards for \$1,060 and he provided copies of invoices for palm cards and a billboard with his response. Mr. Miller also states that the website was designed by him and family members and that the domain name was purchased for \$120. Mr. Miller acknowledges that he met the \$5,000 threshold on August 11, 2008, and states that he filed his Statement of Organization on August 18, 2008. Mr. Miller notes that as of the date of his response, September 25, 2008, his campaign had not raised or spent over \$20,000. Finally, Mr. Miller asserts that he was preparing a disclosure report which he intended to file within a week of the date of his response. To date, the Miller Committee has not filed any disclosure reports.

Mr. Miller has acknowledged that the Committee reached the \$5,000 threshold on August 11, 2008. Mr. Miller was a candidate in Delaware’s primary, and was thus required to file a Pre-Primary Report, 48 Hour Notices if applicable, and an October Quarterly Report. To date, the Miller Committee has not filed any disclosure reports. Accordingly, it appears that the Miller Committee violated 2 U.S.C. § 434(a).

It does not appear, based on the information provided by Mr. Miller, that the Miller Committee raised or spent more than \$20,000. In light of the apparent low level of financial activity at issue in this matter and in the furtherance of the Commission’s priorities and resources relative to other matters pending on the Enforcement docket, the Commission is exercising its

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prosecutorial discretion to dismiss with caution the allegation that Friends for Mike Miller and Denise Diane Miller, in her official capacity as treasurer, violated 2 U.S.C. § 434(a). *See Heckler v. Chaney*, 470 U.S. 821 (1985).

Complainant did not articulate any factual or legal basis for finding the candidate personally liable for any of the alleged reporting violations. Therefore, there is no reason to believe that Micheal Miller violated the Act in connection with the allegations in this matter.

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